



AN ACT REVISING LAWS RELATED TO REVOLVING FUNDS FOR RURAL IMPROVEMENT DISTRICTS AND SPECIAL IMPROVEMENT DISTRICTS; INCREASING THE AMOUNT OF MONEY THAT MAY BE REQUIRED FOR DEPOSIT IN REVOLVING FUNDS WHEN USED TO SECURE BONDS OR WARRANTS FOR IMPROVEMENTS; MAKING THE PURPOSES FOR WHICH EXCESS FUNDS IN RURAL IMPROVEMENT DISTRICT REVOLVING FUNDS MAY BE USED COMPARABLE TO THOSE OF SPECIAL IMPROVEMENT DISTRICT REVOLVING FUNDS; AMENDING SECTIONS 7-12-2153, 7-12-2182, 7-12-2185, 7-12-2186, 7-12-4169, 7-12-4222, 7-12-4225, AND 7-12-4227, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-12-2153, MCA, is amended to read:

**"7-12-2153. Incidental expenses considered as cost of improvements -- costs for bonds or warrants secured by revolving fund -- district reserve account.** (1) Incidental expenses connected with the formation of a ~~special~~ rural improvement district, including the cost of preparation of plans, specifications, maps, or plats; engineering, superintendence, and inspection; preparation of assessment rolls; and the other incidental expenses described in 7-12-2101(7) are considered a part of the cost of making the improvements within the ~~special~~ rural improvement district.

(2) If the bonds or warrants are secured by the revolving fund pursuant to 7-12-2185, the original costs of any improvement must include an amount ~~equal to~~ of at least 5% and not more than 10% of the principal amount of any bonds or warrants to be issued, which must be deposited in the revolving fund created in 7-12-2181.

(3) (a) Subject to the provisions of subsections (3)(b) through (3)(e), the board of county commissioners may create a district reserve account.

(b) As part of the original costs of the improvements, the board of county commissioners may include an amount, in addition to the amount, if any, specified in subsection (2), not to exceed 5% of the principal amount of any rural ~~special~~ improvement district bonds or warrants issued. The amount must be deposited in a district

reserve account created and maintained in the district fund.

(c) If there are insufficient funds in the district bond and interest accounts to pay when due the principal of and the interest on bonds or warrants, the district reserve account, if established, must be used to pay the principal of and the interest on the bonds or warrants issued against the district fund.

(d) If bonds or warrants are secured by the revolving fund, the district reserve account, if established, must be exhausted before a loan may be made from the revolving fund pursuant to 7-12-2183.

(e) Money remaining in the district reserve account after the principal and interest on all bonds and warrants drawn on the district have been paid or discharged must be transferred to the revolving fund.

(4) The establishment of a district reserve account does not preclude the board of county commissioners from requiring additional security from the owners of real property in the district."

**Section 2.** Section 7-12-2182, MCA, is amended to read:

**"7-12-2182. Sources of money for revolving fund.** (1) For the purpose of providing funds for the revolving fund, the board of county commissioners:

(a) shall, if the bonds or warrants are secured by the revolving fund pursuant to 7-12-2185, include in the cost of the improvements to be ~~defrayed~~ paid from the proceeds of the bonds or warrants an amount ~~equal to~~ of at least 5% and not more than 10% of the principal amount of the bonds or warrants to be issued as provided in 7-12-2153(2);

(b) may, from time to time, transfer to the revolving fund from the general fund of the county an amount as may be necessary. The amount transferred is a loan from the general fund to the revolving fund.

(c) shall, in addition to a transfer or transfers from the general fund or in lieu of a transfer, levy for the revolving fund a tax, declared to be for a public purpose, on all taxable property in the county as is necessary to meet the financial requirements of the revolving fund. A tax may not be levied if the balance in the revolving fund ~~exceeds 5%~~ will exceed 10% or, with the amount levied by the tax, will exceed 10% of the principal amount of the then-outstanding rural ~~special~~ improvement district bonds and warrants secured by the revolving fund after all required transfers have been made to the district funds through fiscal yearend. ~~If a tax is levied, the tax may not be an amount that would increase the balance in the revolving fund above 5% of the then-outstanding rural special improvement district bonds and warrants secured by the revolving fund.~~

(2) Whenever there is money in the district fund that is not required for payment of any bond or warrant

of the district secured by the revolving fund or of interest on the bond or warrant, as much of the money as may be necessary to pay the loan provided for in 7-12-2183 must, by order of the board, be transferred to the revolving fund and the balance of the money or, if there is no outstanding loan, as much of the money as the board considers necessary may be transferred to the improvement district's maintenance fund. After all the bonds and warrants secured by the revolving fund issued on any rural ~~special~~ improvement district have been fully paid, all money remaining in the district fund must, by order of the board, be transferred to and become part of the revolving fund or the improvement district's maintenance fund."

**Section 3.** Section 7-12-2185, MCA, is amended to read:

**"7-12-2185. Covenants to use revolving fund -- duration of revolving fund obligation -- factors to be considered.** (1) In connection with the issuance of rural ~~special~~ improvement district bonds or warrants, the board of county commissioners may undertake and agree:

(a) to make loans or advances from the revolving fund to the district fund involved in amounts sufficient to make good any deficiency in the bond and interest accounts, to the extent that funds are available; ~~and~~

(b) to provide funds for the revolving fund pursuant to the provisions of 7-12-2182 by annually making a tax levy {or, in lieu of the tax levy, a loan from the general fund}, subject to the maximum limitations imposed by 7-12-2182; and

(c) to retain in the revolving fund a balance up to 10% of the then-outstanding rural improvement district bonds and warrants secured by the revolving fund.

(2) (a) The undertakings and agreements are binding upon the county with respect to the rural ~~special~~ improvement district bonds or warrants until the earlier of:

(i) the date on which all bonds or warrants of the issue and interest on the bonds or warrants have been fully paid or discharged in a bankruptcy case in which the ~~special~~ rural improvement district is the debtor; or

(ii) the date that is the later of:

(A) the final stated maturity date of the bonds or warrants; or

(B) the date on which all special assessments levied in the district have been either paid or discharged.

(b) The discharge of delinquent special assessments levied with respect to a particular lot or parcel is considered to occur upon:

(i) the issuance of a tax deed, as provided in 15-18-214, or, if the county is the recipient of the tax deed,

upon the sale, lease, or other disposition of the property by the county as provided in Title 7, chapter 8, part 22, 23, 24, or 25, or other applicable law; or

(ii) payment in full of the allowed secured claim for the special assessments in a bankruptcy case in which the owner of the lot or parcel is the debtor.

(3) Prior to entering into the undertakings and agreements set forth in subsection (1), the board of county commissioners shall take into consideration the following factors, including other circumstances that the board may determine to be material to the public interest of securing the bonds or warrants by the revolving fund:

(a) the estimated market value of the lots, parcels, or tracts included in the district at the time that the district is created in comparison to the estimated market value of the lots, parcels, or tracts after the improvements are made;

(b) the diversity of ownership of property in the district;

(c) the amount of the special assessments proposed to be levied against each lot, parcel, or tract in the district in comparison to the estimated market value of the lot, parcel, or tract after the improvements are made;

(d) the amount of any outstanding special assessments against the property in the district;

(e) the amount of delinquencies in the payment of outstanding special assessments or property taxes levied against property in the district;

(f) the public benefit of the improvements proposed to be financed; and

(g) in the case of a district created to make improvements in a newly platted subdivision:

(i) the prior subdivision development experience and credit rating or credit history of the person developing the land; and

(ii) any contribution by property owners to the costs of the improvements or any security given by property owners to secure payment of special assessments levied in the district.

(4) Any findings or determinations with respect to the factors contained in subsection (3) made by the board of county commissioners in a resolution authorizing the undertakings and agreements or the issuance of bonds or warrants are conclusive evidence that the board has taken into consideration the factors required by subsection (3).

(5) In lieu of the undertakings and agreements set forth in subsection (1), the board of county commissioners may determine in the resolution authorizing the issuance of the bonds or warrants that the revolving fund does not secure the bonds or warrants and that the bonds or warrants are payable solely from the

district fund created for the bonds or warrants and do not have a claim against the revolving fund."

**Section 4.** Section 7-12-2186, MCA, is amended to read:

**"7-12-2186. Utilization of excess money in revolving fund.** Whenever there is in the revolving fund an amount in excess of ~~5%~~ the amount deposited pursuant to 7-12-2153(2) and in excess of 10% of the then-outstanding rural ~~special~~ improvement district bonds and warrants secured ~~thereby~~ by the revolving fund and the board considers any part of the excess to be greater than the amount necessary for payment or redemption of maturing bonds or warrants secured ~~thereby~~ by the revolving fund or interest ~~thereon~~ on the revolving fund, the board may order that any part of the amount the board considers greater than the amount necessary ~~or any part thereof~~ to be:

- (1) transferred to the general fund of the county;
- (2) used for the purchase of property at sales for delinquent taxes, assessments, or both; or
- (3) used for the purchase of property that may have been struck off or sold to the county for delinquent taxes, assessments, or both and against which there is an unpaid assessment for special improvements and there are outstanding special improvement district bonds or warrants of the city or town."

**Section 5.** Section 7-12-4169, MCA, is amended to read:

**"7-12-4169. Incidental expenses considered as cost of improvements -- costs for bonds or warrants secured by revolving fund -- district reserve account.** (1) Incidental expenses connected with the formation of a special improvement district, including costs of preparation of plans, specifications, maps, and plats; engineering, superintendence, and inspection; preparation of assessment rolls; and the other incidental expenses described in 7-12-4101(7) are considered a part of the cost of making the improvements within the special improvement district.

(2) If the bonds or warrants are secured by the revolving fund under 7-12-4225, the costs of any improvement must include an amount ~~equal to~~ of at least 5% and not more than 10% of the principal amount of any bonds or warrants to be issued, which must be deposited in the revolving fund created in 7-12-4221.

(3) (a) Subject to the provisions of subsections (3)(b) through (3)(e), the city or town council may create a district reserve account.

(b) As part of the original costs of the improvements, the city or town council may include an amount,

in addition to the amount, if any, specified in subsection (2), not to exceed 5% of the principal amount of any special improvement district bonds or warrants issued. The amount must be deposited in a district reserve account created and maintained in the district fund.

(c) If there are insufficient funds in the district bond and interest accounts to pay when due the principal of and the interest on bonds or warrants, the district reserve account, if established, must be used to pay the principal of and the interest on the bonds or warrants issued against the district fund.

(d) If bonds or warrants are secured by the revolving fund, the district reserve account, if established, must be exhausted before a loan may be made from the revolving fund pursuant to 7-12-4223.

(e) Money in the district reserve account may be used to pay the final principal and interest payment on bonds or warrants.

(4) The establishment of a district reserve account does not preclude the city or town council from requiring additional security from owners of real property in the district."

**Section 6.** Section 7-12-4222, MCA, is amended to read:

**"7-12-4222. Sources of money for revolving fund.** (1) For the purpose of providing funds for the revolving fund, the city or town council:

(a) may, from time to time, transfer to the revolving fund from the general fund of the city or town an amount as may be necessary. The amount transferred is a loan from the general fund to the revolving fund.

(b) shall, if the bonds or warrants are secured by the revolving fund pursuant to 7-12-4225, include in the cost of the improvement to be ~~defrayed~~ paid from the proceeds of the bonds or warrants an amount ~~equal to~~ of at least 5% and not more than 10% of the principal amount of the bonds or warrants as provided in 7-12-4169; and

(c) shall, in addition to a transfer or transfers from the general fund or in lieu of a transfer, levy for the revolving fund a tax, declared to be for a public purpose, on all taxable property in the city or town as is necessary to meet the financial requirements of the revolving fund. A tax may not be levied if the balance in the revolving fund ~~exceeds 5%~~ will exceed 10% or, with the amount levied by the tax, will exceed 10% of the principal amount of the then-outstanding special improvement district bonds and warrants secured by the revolving fund after all required transfers have been made to the district funds through fiscal yearend. ~~If a tax is levied, the tax may not be an amount that would increase the balance in the revolving fund above 5% of the then-outstanding special~~

~~improvement district bonds and warrants secured by the revolving fund.~~

(2) Whenever there is money in the district fund that is not required for payment of any bond or warrant of the district secured by the revolving fund or of interest on the bond or warrant, as much of the money as may be necessary to pay the loan provided for in 7-12-4223 must, by order of the council, be transferred to the revolving fund. After all the bonds and warrants issued on any special improvement district or sidewalk, curb, and alley approach warrants secured by the revolving fund have been fully paid, all money remaining in the district fund must, by order of the council, be transferred to and become part of the revolving fund."

**Section 7.** Section 7-12-4225, MCA, is amended to read:

**"7-12-4225. Covenants to use revolving fund -- duration of revolving fund obligation -- factors to be considered.** (1) In connection with the issuance of special improvement district bonds or sidewalk, curb, and alley approach warrants, the city or town council may undertake and agree:

(a) to make loans or advances from the revolving fund to the district fund involved in amounts sufficient to make good any deficiency in the bond and interest accounts, to the extent that funds are available; ~~and~~

(b) to provide funds for the revolving fund pursuant to the provisions of 7-12-4222(1) by annually making a tax levy {or, in lieu of the tax levy, a loan from the general fund}, subject to the maximum limitations imposed by 7-12-4222(1); and

(c) to retain in the revolving fund a balance of up to 10% of the then-outstanding special improvement district bonds and warrants secured by the revolving fund.

(2) The undertakings and agreements referred to in subsection (1) are binding upon the city or town with respect to the special improvement district bonds or sidewalk, curb, and alley approach warrants until the earlier of:

(a) the date on which all bonds or warrants of the issue and interest on the bonds or warrants have been fully paid or discharged in a bankruptcy case in which the special improvement district is the debtor; or

(b) the date that is the later of:

(i) the final stated maturity date of the bonds or warrants; or

(ii) the date on which all special assessments levied in the district have been either paid or discharged.

(3) The discharge of delinquent special assessments levied with respect to a particular lot or parcel is considered to have occurred upon:

(a) the issuance of a tax deed, as provided in 15-18-214, or, if the county is the recipient of the tax deed, upon the sale, lease, or other disposition of the property by the county as provided in Title 7, chapter 8, part 22, 23, 24, or 25, or other applicable law;

(b) the discharge of the trust pursuant to 15-17-318 or upon the sale or lease of the property under 15-17-319 if the property in the district has been assigned to the city or town under Title 15, chapter 17, part 3; or

(c) payment in full of the allowed secured claim for the special assessments in a bankruptcy case in which the owner of the lot or parcel is the debtor.

(4) Prior to entering into the undertakings and agreements set forth in subsection (1), the city or town council shall take into consideration the following factors, including other circumstances that the city or town council may determine to be material to the public interest of securing the bonds or warrants by the revolving fund:

(a) the estimated market value of the lots, parcels, or tracts included in the district at the time that the district is created in comparison to the estimated market value of the lots, parcels, or tracts after the improvements are made;

(b) the diversity of ownership of property in the district;

(c) the amount of the special assessments proposed to be levied against each lot, parcel, or tract in the district in comparison to the estimated market value of the lot, parcel, or tract after the improvements are made;

(d) the amount of any outstanding special assessments against the property in the district;

(e) the amount of delinquencies in the payment of outstanding special assessments or property taxes levied against property in the district;

(f) the public benefit of the improvements proposed to be financed; and

(g) in the case of a district created to make improvements in a newly platted subdivision:

(i) the prior subdivision development experience and credit rating or credit history of the person developing the land; and

(ii) any contribution by property owners to the costs of the improvements or any security given by property owners to secure payment of special assessments levied in the district.

(5) Any findings or determinations with respect to the factors contained in subsection (4) made by the city or town council in a resolution authorizing the undertakings and agreements or the issuance of bonds or



warrants are conclusive evidence that the city or town council has taken into consideration the factors required by subsection (4).

(6) In lieu of the undertakings and agreements set forth in subsection (1), the city or town council may determine in the resolution authorizing the issuance of the bonds or warrants that the revolving fund does not secure the bonds or warrants and that the bonds or warrants are payable solely from the district fund created for the bonds or warrants and do not have a claim against the revolving fund."

**Section 8.** Section 7-12-4227, MCA, is amended to read:

**"7-12-4227. Utilization of excess money in revolving fund.** Whenever there is an amount in the revolving fund in excess of the amount deposited in the revolving fund under 7-12-4169(2) and in excess of ~~5%~~ 10% of the outstanding special improvement district bonds and warrants secured by the revolving fund and the council considers any part of the excess to be greater than the amount necessary for payment or redemption of maturing bonds or warrants secured ~~thereby by the revolving fund~~ thereon on the revolving fund, the council may:

~~— (1) by vote of all of its members at a meeting called for that purpose, order that any part of the amount of the excess that is greater than the amount necessary for the payment or redemption of maturing bonds or warrants secured thereby by the revolving fund or interest thereon or any part thereof on the revolving fund to be:~~

(1) transferred to the general fund of such the city or town; or

~~(2) use the excess that is greater than the amount necessary for the payment or redemption of maturing bonds or warrants secured thereby or interest thereon or any part thereof~~ used for the purchase of property at sales for delinquent taxes, or assessments, or both; or

(3) used for the purchase of property which that may have been struck off or sold to the county for delinquent taxes, or assessments, or both; and against which ~~property there then be any~~ is an unpaid assessment for special improvements ~~on account whereof~~ and there are outstanding special improvement district bonds or warrants of the city or town."

**Section 9. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
HB 0630, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

HOUSE BILL NO. 630

INTRODUCED BY SANDS, DRISCOLL, GILLAN, MACDONALD

AN ACT REVISING LAWS RELATED TO REVOLVING FUNDS FOR RURAL IMPROVEMENT DISTRICTS AND SPECIAL IMPROVEMENT DISTRICTS; INCREASING THE AMOUNT OF MONEY THAT MAY BE REQUIRED FOR DEPOSIT IN REVOLVING FUNDS WHEN USED TO SECURE BONDS OR WARRANTS FOR IMPROVEMENTS; MAKING THE PURPOSES FOR WHICH EXCESS FUNDS IN RURAL IMPROVEMENT DISTRICT REVOLVING FUNDS MAY BE USED COMPARABLE TO THOSE OF SPECIAL IMPROVEMENT DISTRICT REVOLVING FUNDS; AMENDING SECTIONS 7-12-2153, 7-12-2182, 7-12-2185, 7-12-2186, 7-12-4169, 7-12-4222, 7-12-4225, AND 7-12-4227, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.